

REMARKS

Claims 1-3, 17-19, and 21 are pending. Claims 4-16 and 20 are withdrawn from consideration in the present application. Claim 2 is canceled herein without prejudice. Claims 1 and 17-19 are amended herein. New claim 22 is submitted herewith. Accordingly, amended claims 1 and 17-19, original claim 21, and new claim 22 are presently under consideration.

Support for amendment to the claims is found throughout the specification and in the original claims. Specifically, support for amendment to claim 1 is found, for example, in paragraphs [0211] and [0242], and in Figure 1 and the Sequence Listing of United States Patent Application No. 2004-0142367, which corresponds to the instant application, wherein support for SEQ ID NOs: 3 and 10 is presented. No issue of new matter is introduced by these amendments.

Support for new claim 22 is found throughout the specification and in the original claims. Specifically, support for new claim 22 is found, for example, in original claim 1 and in paragraphs [0211] and [0242], and in Figure 1 and the Sequence Listing of United States Patent Application No. 2004-0142367, wherein support for SEQ ID NOs: 3 and 10 is presented. No issue of new matter is introduced by these amendments.

Priority

Applicant has requested and is awaiting Certified Copies of United Kingdom Application Nos. 0114643.0 (filed June 15, 2001) and 0205264.5 (filed March 6, 2002). Upon their receipt, Certified Copies of these applications will be submitted for the Examiner's consideration.

Specification

The Specification is amended herein to delete embedded hyperlinks and other forms of browser-executable code. In view of the above, it is believed that the objection to the Specification may be withdrawn.

Claim Objections

Claims 1, 17, and 19 are objected to because they read on non-elected subject matter. The claims are amended herein to delete reference to non-elected subject matter. Accordingly, Applicant respectfully requests withdrawal of this objection.

Rejections under 35 USC § 112

Claims 1-3, 17-19, and 21 are rejected under 35 USC § 112, first paragraph, for allegedly failing to comply with the written description requirement. Claim 2 is canceled herein, thereby obviating any rejection of this claim. In view of the amendments to the claims and Applicant's arguments, the rejection, as it applied to claims 1, 3, 17-19, and 21 is respectfully traversed.

The Examiner acknowledges that the written description requirement is satisfied for SEQ ID NO: 1. Applicant asserts that the specification also satisfies the written description requirement for SEQ ID NOs: 3 and 10. The Examiner is directed to paragraphs [0211] and [0242] (numbered in accordance with the published application) and the Sequence Listing, for example, for a description of each of these sequences, respectively. It is noted that the Examiner refers to DTD proteins, rather than BCMP101, at page 5 of the present Office Action. Applicant has understood the inclusion of the term "DTD proteins" to be the result of a clerical error, but requests confirmation of this understanding so as to clarify the record. In view of the ample description presented in the specification for SEQ ID NOs: 1, 3, and 10, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claims 1-3, 17-19, and 21 are rejected under 35 USC § 112, first paragraph, for allegedly failing to comply with the enablement requirement. Claim 2 is canceled herein, thereby obviating any rejection of this claim. In view of the amendments to the claims and Applicant's arguments, the rejection, as it applied to claims 1, 3, 17-19, and 21 is respectfully traversed.

The Examiner acknowledges that the specification is enabling for a composition for treating breast cancer comprising administering a polypeptide identified as SEQ ID NO: 1. Applicant maintains that the specification is also enabling with respect to either of SEQ ID NO: 3 or 10. The Examiner is directed to paragraphs [0211] and [0242] and

the Sequence Listing, for example, for a description of each of these sequences, respectively, and commentary relating to their use. In view of the support presented in the specification for SEQ ID NOs: 1, 3, and 10, Applicant respectfully requests reconsideration and withdrawal of this rejection.

In view of the amendments to the claims and Applicant's arguments, therefore, reconsideration and withdrawal of the rejection of the claims under 35 USC § 112, first paragraph, is respectfully requested.

Rejection Under 35 U.S.C. § 102

Claims 1-3, 17-19, and 21 are rejected under 35 U.S.C. §102(e) as allegedly anticipated by United States Patent Application Publication No. 2003/0092898 (filed February 12, 2002). Claim 2 is canceled herein, thereby obviating any rejection of this claim. In view of Applicant's arguments presented herein and amendments to the claims, the rejection as it applied to claims 1, 3, 17-19, and 21 is respectfully traversed.

Claim 1 and dependent claims therefrom are amended to be directed to SEQ ID NO: 1 and specific fragments thereof SEQ ID NOs: 3 and 10. United States Patent Application Publication No. 2003/0092898 does not teach SEQ ID NO: 1; SEQ ID NO: 3; or SEQ ID NO: 10.

In view of the above, United States Patent Application Publication No. 2003/0092898 fails to teach each of the elements of the instant claims. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of the instant claims based on this reference.

Claims 1, 3, 17-19, and 21 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by United States Patent No. (USPN) 5,776,687 (issued July 7, 1998). In view of Applicant's arguments presented herein and amendments to the claims, the rejection as it applied to claims 1, 3, 17-19, and 21 is respectfully traversed.

Claim 1 and dependent claims therefrom are amended to be directed to SEQ ID NO: 1 and specific fragments thereof SEQ ID NOs: 3 and 10. United States Patent Application Publication No. 2003/0092898 does not teach SEQ ID NO: 1; SEQ ID NO: 3; or SEQ ID NO: 10.

In view of the above, USPN 5,776,687 fails to teach each of the elements of the instant claims. Accordingly, Applicant deferentially requests reconsideration and withdrawal of the rejection of the instant claims based on this reference.

In view of the above arguments, the Examiner is respectfully requested to reconsider the validity of the rejection of claims 1-3, 17-19, and 21 under 35 U.S.C. §102 and withdraw the rejection.

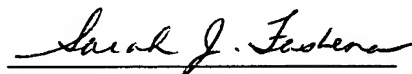
Fees

No additional fees are believed to be necessitated by this amendment. However, should this be an error, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment or to credit any overpayment.

Conclusion

It is submitted, therefore, that the claims are in condition for allowance. No new matter has been introduced. Allowance of all claims at an early date is solicited. In the event that there are any questions concerning this amendment, or application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

Respectfully submitted,



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